



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,089	09/17/2003	Ajit Singh Gill	006-1-018	6063

27469 7590 10/27/2004

MALLINCKRODT & MALLINCKRODT
10 EXCHANGE PLACE, SUITE 510
SALT LAKE CITY, UT 84111

EXAMINER

DUNWOODY, AARON M

ART UNIT	PAPER NUMBER
----------	--------------

3679

DATE MAILED: 10/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,089

Applicant(s)

GILL, AJIT SINGH

Examiner

Aaron M Dunwoody

Art Unit

3679



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 2-9, 11, 12, 19 and 22-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10, 13-18, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3679

DETAILED ACTION

Election/Restrictions

Claims 2-9, 11, 12, 19 and 22-32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 8/12/2004.

Applicant's election with traverse of the invention elected in the reply filed on 8/12/2004 is acknowledged. The traversal is on the ground(s) that claims 1-12, 14 and 15 are generic. This is not found persuasive because claims 1-12, 14 and 15 do not read on all species, they cannot be considered generic.

The requirement is still deemed proper and is therefore made FINAL.

Priority

Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1, 10, 13-18, 20 and 21 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1, 10, 13-18, 20 and 21 of copending

Art Unit: 3679

Application No. 10/654,666. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 10, 13-18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 2722399, Oetiker.

In regards to claim 1, in Figures 3, 5 and 6, Oetiker discloses a coupling for attachment to the end portion of a pipe, comprising:

a coupling body to closely receive the end portion of the pipe to be coupled therewith;

a set of first class lever jaw members each having a power arm and a separate weight arm extending from a fulcrum; and

means mounting each lever jaw member of the set of lever jaw members to the coupling body to establish the fulcrum for rotation of each lever jaw member about the fulcrum where rotation of the power arm about the fulcrum causes rotation of the weight arm about the fulcrum to an engaged position or to a disengaged position with respect to the end portion of the pipe when the pipe is received in the coupling body.

In regards to claim 10, in Figures 3, 5 and 6, Oetiker discloses the coupling joining two pipes (implied) in end to end relationship, each pipe having an end portion,

Art Unit: 3679

wherein the coupling body is adapted to closely receive the end portion of each of the two pipes to be joined in end to end relationship, the set of lever jaw members being located with respect to the coupling body to engage the end portion of one of the two pipes to be joined, the coupling further including a second set of first class lever jaw members each having a power arm and a separate weight arm extending from a fulcrum, means for mounting each lever jaw member of the second set of lever jaw members to the coupling body to establish the fulcrum for rotation of each lever jaw member of the second set of lever jaw members about the fulcrum where rotation of the power arm about the fulcrum causes rotation of the weight arm about the fulcrum to an engaged position or to a disengaged position with respect to the end portion of the other pipe when received in the coupling body, the second set of lever jaw members being spaced from the set of lever jaw members and located with respect to the coupling body to engage the end portion of the other of the two pipes to be joined when the other pipe is received in the coupling body and the lever jaws of the second set

In regards to claim 13, in Figures 3, 5 and 6, Oetiker discloses the coupling body including at least one gasket sealing means (o) for sealing around the ends of the pipes to be joined to prevent leakage therefrom.

In regards to claim 14, in Figures 3, 5 and 6, Oetiker discloses the coupling joining two pipes in end to end relationship, each pipe having an end portion and a shoulder in the end portion of the pipe, wherein the coupling body is adapted to closely receive the end portion of each of the two pipes to be joined in end to end relationship, the set of lever jaw members being located with respect to the coupling body to engage

Art Unit: 3679

the shoulder in the end portion of one of the two pipes to be joined, the coupling further including a second set of first class lever jaw members each having a power arm and a separate weight arm extending from a fulcrum, means for mounting each lever jaw member of the second set of lever jaw members to the coupling body to establish the fulcrum for rotation of each lever jaw member of the second set of lever jaw members about the fulcrum where rotation of the power arm about the fulcrum causes rotation of the weight arm about the fulcrum to an engaged position or to a disengaged position with respect to the end

In regards to claim 15, in Figures 3, 5 and 6, Oetiker discloses the coupling body being substantially cylindrical and of a length to extend over the circumferential shoulder of the one pipe of two pipes to be joined end-to-end and over the shoulder of the other of the two pipes to be joined, wherein the set of lever jaws is located at one end of the body and the second set of lever jaws is located at the other end of the body.

In regards to claim 16, in Figures 3, 5 and 6, Oetiker discloses the coupling body including a gasket sealing means around each of the ends of the pipes to be joined for sealing around the ends of the pipes to be joined to prevent leakage therefrom.

In regards to claim 17, in Figures 3, 5 and 6, Oetiker discloses the coupling body including at least one gasket sealing means for sealing around the end of the pipe to be joined to prevent leakage therefrom.

In regards to claim 18, in Figures 3, 5 and 6, Oetiker discloses the end portion of the pipe to be received in the coupling body including an end, and additionally including a groove in the coupling body for receiving and holding a portion of the at least one

Art Unit: 3679

gasket and positioned so that the at least one gasket held in the groove contacts the end of the pipe when received in the coupling body.

In regards to claim 21, in Figures 3, 5 and 6, Oetiker discloses additionally including a groove in the coupling body for receiving and holding a portion of the at least one gasket and positioned so that the gasket held in the groove contacts the end of the pipe when received in the coupling body.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oetiker in view of US patent 2369770, Baxter.

In regards to claim 20, Oetiker discloses the claimed invention except for the at least one gasket being an inverted "U" type seal . Baxter teaches a U type seal (2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the at least one gasket as an inverted "U" type seal, since a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Conclusion

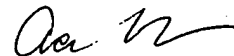
Art Unit: 3679

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure because it illustrates the inventive concept of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is 703-306-3436. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P Stodola can be reached on 703-306-5771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Aaron M Dunwoody
Examiner
Art Unit 3679

.amd